

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Telecommunications Division
Carrier Branch**

**RESOLUTION T-16854
July 8, 2004**

R E S O L U T I O N

Resolution T-16854. Verizon California, Inc. (U-1002-C). Request to Establish the Limitation of Liability due to the provision of commercial power required to provide communication service.

By Advice Letter No. 10845 Filed on April 26, 2004. Supplemented by Advice Letter 10845A filed on May 5, 2004.

Summary

This Resolution approves the request of Verizon California Inc. (Verizon) to add a provision to the Limitation of Liability for situations where the customer must provide commercial power to operate Verizon's equipment.

Background

By Advice Letter 10845, filed March 23, 2004, and supplemented by Advice Letter 10845A filed May 5, 2004, Verizon requested authority to limit liability in the case of power failures when the provision of commercial power is required for equipment at the customer's premises. Verizon would not be liable for interruptions of service caused by power failure. Verizon also requests limitation of liability for any property damage or personal injury caused by consumer-provided power supply, wiring or power outlet.

Notice/Protests

Verizon indicates that copies of the Advice Letter (AL) were mailed to interested utilities and/or parties. Notice of Advice Letter No. 10845 and Supplement AL 10845A was published in the Commission Daily Calendar of May 12, 2004. No protests to this Advice Letter have been received.

Discussion

Verizon's original filing requested that its request be granted by an executive action resolution. However, executive action resolutions are authorized in specific instances and this matter cannot be resolved with an executive action resolution. Verizon subsequently filed a supplement to request that the matter be handled by a resolution.

Verizon states that telecommunication services are rapidly changing and that there are a variety of different types of arrangements and equipment necessary to serve the customer's needs. In some instances the equipment requires commercial power for operation. If the commercial power were interrupted then the service would be interrupted. Verizon provides the service and equipment but should not be liable for interruptions of service caused by commercial power failure to the customer. Since Verizon is not supplying the power, Verizon should not be liable for situations that arise as a consequence of the existence of the power.

With the variety of services and arrangements offered, the old model of the utility providing the service through wires to the customer's telephone is no longer the only method. While the traditional basic telephone service using DC power from the central office is still used for basic telephone service, the utilities offer many other types of communication services. Some of these require complex customer premise equipment (CPE) which may require commercial power. It is difficult for telecommunications utilities to provide commercial power at a customer's premises for many reasons.

The customer generally already has commercial power available and can provide the power to the utility's equipment. It would be unjust for the utility to be liable for the consequences of the customer's power provision to power utility-owned equipment at the customer's premises. The utility should not be liable for outages due to power failure at the customer's premises.

The Telecommunications Division (TD) recommends that the Commission approve the request of Verizon for the reasons stated above.

Commission approval of TD's recommendations is based on the specifics of this Advice Letter and its associated tariff sheets, and does not establish a precedent for the contents of future filings or for Commission approval of similar requests.

Comments on DRAFT Resolution

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU code Section 311(g) (2), the otherwise applicable 30-day period for public review and comment is being waived.

Findings

1. Verizon filed Advice Letter 10845 and 10845A to request that it not be held liable for injuries or damages or outages related to the provision of commercial power by the customer to operate Verizon's equipment at the customer's premises.
2. Verizon sometimes has to rely on the provision of commercial power to operate equipment at the customer's premises.
3. Verizon should not be liable for problems with the customer's provision of power.

THEREFORE, IT IS ORDERED that:

1. Verizon California, Inc.'s is authorized to make effective the tariff sheets attached to Advice Letters No. 10845 and 10845A. The effective date of the tariff sheets shall be July 19, 2004. The tariff sheets shall be marked to show that they were made effective by Resolution T-16854.

This Resolution is effective today.

I hereby certify that the Public Utilities Commission adopted this Resolution at its regular meeting on July 8, 2004. The following Commissioners approved it:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN
Deputy Executive Director

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners